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Attorney for Petitioner  
ANGEL JESUS ALVAREZ

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ANGEL JESUS ALVAREZ,  
Petitioner,

v.

ROBERT AYERS, JR.,  
Respondent.

No. C06-5027 MJJ

**PETITIONER ANGEL ALVAREZ'S  
APPLICATION FOR EXTENSION OF  
TIME TO FILE A RESPONSE TO THE  
MOTION TO DISMISS PETITION**

On September 5, 2007, Respondent filed a Motion to Dismiss Petition for Writ of Habeas Corpus as Untimely. Petitioner's counsel received the motion to dismiss from the Clerk of the Court via ECF service on September 5, 2007. The hearing date on the motion to dismiss was initially set for October 30, 2007. On September 10, 2007, Respondent withdrew the October 30, 2007 hearing date on the motion to dismiss. There is presently no hearing date set on the motion to dismiss. Pursuant to Habeas L.R. 2254-6, it is Petitioner's understanding is that his response is due on October 5, 2007.

Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254-6, Petitioner respectfully requests an extension of time of 60 days to file a response to the motion to dismiss. See Habeas L.R. 2254-6(c) and Rule 5(e) of the Rules Governing Section 2254 Cases. Good cause is set forth in the attached declaration.

1 Respondent's counsel, Deputy Attorney General Violet M. Lee, agrees to a 60-day extension  
2 of time in light of the issues and facts presented in the motion to dismiss, combined with the location  
3 of Petitioner and his counsel and their need to personally meet and confer in preparation for the  
4 response.

5 DATED: September 24, 2007

6 Respectfully submitted,  
LAW OFFICES OF SCOTT L. TEDMON

7 /s/ Scott L. Tedmon  
8 SCOTT L. TEDMON  
Attorney for Petitioner Angel Jesus Alvarez

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**DECLARATION OF SCOTT L. TEDMON  
IN SUPPORT OF APPLICATION  
FOR EXTENSION OF TIME**

SCOTT L. TEDMON states under penalty of perjury:

1. I am the counsel of record for Petitioner Angel Jesus Alvarez.

2. On September 5, 2007, I was served with Respondent's motion to dismiss. Pursuant to Habeas L.R. 2254-6, it is my understanding that Petitioner's response to the motion to dismiss is due on October 5, 2007. I have made no prior request for an extension of time.

3. After receiving the motion to dismiss and giving it an initial review, I sent a complete copy of the motion with a cover letter to Petitioner Alvarez on September 10, 2007. Petitioner Alvarez is presently incarcerated at San Quentin State Prison.

4. Since the filing of the motion to dismiss, I have been communicating with Petitioner Alvarez by mail and telephone. However, due to the limited nature of these contacts, it is not possible to properly address the issues and facts raised by Respondent in their motion to dismiss.

1 In addition to my own research and review, it will be necessary for me to personally meet and confer  
2 with Petitioner Alvarez for a minimum of two legal visits at San Quentin State Prison in order to  
3 fully and properly respond to Respondent's motion to dismiss.

4 5. In addition to Petitioner's case and other matters I am currently handling, I have a federal  
5 jury trial set to begin on November 6, 2007 in the Eastern District of California before the Honorable  
6 Lawrence K. Karlton. The case is U.S. v. Robert Oliver, et al., case number Cr. S- 04-118 LKK and  
7 involves three defendants facing a 35-count Indictment alleging conspiracy to commit wire fraud,  
8 wire fraud, money laundering, tax evasion, subscribing to a false tax return and false statement. I  
9 represent Robert Oliver and the trial is expected to last a minimum of four weeks. While I will be  
10 able to work on Petitioner Alvarez's response during the Oliver trial, my time will be somewhat  
11 limited.

12 6. An extension of time of 60 days is necessary in light of my schedule, the legal and factual  
13 issues presented in Respondent's motion to dismiss, the location of Petitioner Alvarez and the need  
14 for me to personally meet and confer with him regarding the issues raised, and to fully prepare and  
15 present for the Court's review Petitioner Alvarez's response to the motion.

16 For the reasons stated, I respectfully request that the Court grant an extension to December  
17 5, 2007, to file a response to the motion to dismiss.

18 Executed this 24<sup>th</sup> day of September 2007, at Sacramento, California.

19 /s/ Scott L. Tedmon  
20 SCOTT L. TEDMON  
21 Attorney for Petitioner Angel Jesus Alvarez  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ANGEL JESUS ALVAREZ,

Petitioner,

v.

ROBERT AYERS, JR., Warden,

Respondent.

No. C06-5027 MJJ

**[PROPOSED] ORDER**

GOOD CAUSE appearing, it is hereby ordered that the time within which to file Petitioner's response to Respondent's motion to dismiss is extended sixty (60) days to and including December 5, 2007.

DATED: \_\_\_\_\_

\_\_\_\_\_  
HONORABLE MARTIN J. JENKINS  
United States District Judge